

DEPARTMENT OF PUBLIC SAFETY



**LICENSING & INSPECTION UNIT
164 STATE HOUSE STATION
AUGUSTA, ME 04333-0164**

RULES AND REGULATIONS

Chapter 1: OPERATION AND CONTROL OF ALL LICENSED PREMISES

1. All licenses are issued subject to the provisions of the State Laws and Federal Alcohol Administration laws, municipal ordinances and rules and regulations made pursuant thereto, and all municipal, State and Federal licenses and permits required by such laws, ordinances or rules and regulations must be kept in full force and effect by licensees during the entire effective license period of the liquor license.
 - A. All license applications shall include the complete and entire ownership in accordance with Title 28 A Section 651, 2A. All persons owning, and or operating with a financial interest in the operation shall be named as licensees, except bona fide employees.
2. Licenses erroneously issued by the Bureau of Liquor Enforcement will be considered void and must be returned to the Bureau on demand.
3. Wherever reference is made in the following rules and regulations to acts or omissions forbidden on the part of the licensee, corporation or individual, it shall be held and construed to mean acts of such licensee, corporation or individual or their clerk, servant or agent. Whoever is found in charge of a licensed premise or making service or waiting on trade in such licensed premise shall be prima facie construed to be a clerk, servant and agent of the licensee.

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4. Violation of any Commission rule and regulation, State law or municipal ordinance, occurring on a licensed premise after legal hours of sale of liquor or on days when sale of liquor is forbidden by law, shall be grounds for suspension or revocation of license.
 5. No licensee shall have or permit on his licensed premises any gaming devices, sealed tickets, punch board or any mechanism which dispenses money or other valuable thing which is redeemable or exchangeable for money or other valuable thing, other than premises properly licensed. Free replays shall not be considered a thing of value.
 - A. All other types of machines or mechanisms designed for amusement or entertainment may be permitted on licensed premises. Pool tables may be used in designated areas as authorized by the Bureau. The licensee and the owner shall be required to furnish such additional information to the Bureau as the Bureau in its sole discretion deems necessary for proper supervision of such activity.
 6. The use of any device or game of chance to aid directly in the sale or distribution of liquor is prohibited.
 7. All premises licensed to sell liquor and adjoining premises used by the licensee in the operation of the business will be kept in a clean and sanitary condition at all times and will be licensed by the Department of Human Services or the Department of Agriculture.
 - A. All premises licensed to sell alcoholic beverages for on premise consumption shall have separate toilet facilities for each sex and will be equipped in such a manner to comply with Human Services Rules.
 8. No licensee shall permit or allow visibly intoxicated persons to remain on the licensed premises. No licensee shall show effects of, nor allow any of his employees, agents or entertainers to consume or to show any effect of liquor while on duty or performing on the licensed premises.
 9. *(Repealed.)*

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10. No licensee shall possess or permit possession, sale or consumption of any liquor on the licensed premises other than that which is permitted and purchased by the licensee in accordance with the license or licenses granted for said premises.
 11. No licensee shall, without written consent of the Bureau, permit liquor to be kept or stored upon any premise other than those licensed and under the control of the Bureau. The Bureau shall have access to any additional premises where empty containers are kept.
 12. All applications submitted to the Bureau will be voided after 1 year unless a license has been issued. All application fees may be refunded, with the exception of the filing fee, when an application is voided.
 13. No licensee, his agent or employee, shall allow in or upon his licensed premises, any improper conduct, disorder, illegality, disturbances, lewdness, immoral activities, or language, songs, entertainment, literature, pictures, raffle tickets or advertising material of indecent, profane or obscene nature, or cause to have printed or distributed any lewd, immoral, indecent, or obscene literature, pictures or advertising material of indecent, profane or obscene nature, except that premises properly licensed may permit raffle tickets.
 14. *(Repealed.)*
 15. No licensee in this State shall purchase malt liquor, table or sparkling or fortified wine, or low alcohol spirits from any person who has not been issued the proper wholesale license. A wholesale or retail licensee whose license has been revoked, surrendered, or otherwise terminated, may, on approval from the Bureau, sell his entire stock of malt liquor, table, sparkling, or fortified wine, or low alcohol spirits, to another licensee. Nothing in this rule will prohibit a licensee from making purchases from a State Liquor Store in accordance with his license privilege.
 - A. Any retail licensee whose license has been revoked, surrendered or otherwise terminated, may, on approval of the Bureau, sell his entire stock of spirits to another licensee.
 - B. No malt liquor, table, sparkling or fortified wine, or low alcohol spirit, may be returned by a retail licensee unless the product is defective. Products deemed to be defective include leakers, partially filled containers, soiled or missing labels, defective containers, and outdated or discontinued

merchandise. No refund may be made for any returned item. A defective bottle or package must be replaced with a like bottle or package or a credit may be issued for future purchases.

16. No alteration or repair to licensed premises which changes the physical character of the premises as reported in the application for license shall be made unless the licensee has received prior permission from the Bureau.
17. No person employed by any wholesale liquor licensee shall be eligible for a liquor license.
18. Wholesale licensees are prohibited from using escrow accounts involving the sale of malt beverages and table wines to retail accounts except by written authorization from the Bureau.
 - A. Prepaid invoices are allowed.

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Chapter 2: PREMISES LICENSED FOR ON PREMISES CONSUMPTION ONLY

1. No licensee shall permit consumption of liquor on licensed premises by minors or persons visibly intoxicated.
2. No licensee shall permit consumption of liquor on his licensed premises during period of any license suspension.
3. No person under 18 years of age shall be allowed to entertain, with or without compensation, in licensed premises while liquor is being served or consumed, except that in Class A restaurants, clubs, and hotel dining rooms persons 17 years of age who are members of a musical group may entertain. Any person

under 17 years of age will be permitted to entertain provided his/her parent is present.

- A. No on-premise licensee shall permit the direct handling of liquor on the licensed premises by any person under the age of 15 years. Persons who are at least 15 years old may stock coolers or bus tables, but may not sell, serve or mix liquor.
- 4. All licenses and permits requiring local approval must be submitted to the Bureau within 60 days of the local approval date. Applications not submitted to the Bureau in a timely fashion will be returned to the licensed applicant for re-approval by the city, town or county.
 - 5. *(Repealed.)*
 - 6. Every on-premise licensee required to sell food shall maintain a food inventory of \$2.00 per seat and shall keep on hand dishes and utensils to serve the maximum seating capacity. Utensils and dishware may be paper or plastic. Every on-premise licensee will keep separate records of all food purchased and sold, and separate records of liquor purchased and sold. Soft drinks may not be included as food sales.
 - A. All Class A restaurants must keep their kitchen open during all hours of operation for the service of full course meals. The kitchen must be staffed by a cook or other personnel in addition to wait staff personnel who provide alcoholic beverages.
 - B. Class A Lounges must offer food for sale during all times they are serving liquor. For purposes of this rule, the term "food" refers to cold or hot meals, including sandwiches, salads, and other forms of solid nourishment including, but not by way of limitation, hamburgers, cheeseburgers, hot dogs, pizzas, and other food items which customarily would appear on a well balanced menu. The term "food" specifically does not include prepackaged snack foods, such as popcorn, chips, or pretzels.
 - 7. Except as provided by Title 28-A Section 1001, 3E, no club licensee shall sell liquor or permit it to be sold on the club premise during any function or activity other than strictly a club function or activity. No function or activity on the club premise shall be considered a club function when the club solicits attendance by the public.

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8. No nonmember who enters any licensed club shall be considered to be entitled to the service of liquor unless he is accompanied at all times by the member who accompanied him on admission.
 - A. One single exception to Rule 2.8 is that clubs having the catering privilege may serve groups of nonmembers at prearranged gatherings. When tickets are available for such an event the sales of such tickets must be in advance and cannot be available for sale at the door.
 9. Licensed clubs with catering privilege are limited to service of liquor and/or food to groups of nonmembers at functions for which arrangements have been made at least twenty-four hours before such function is to take place and time limits shall be set for service of liquor at all such functions.
 - A. A record shall be maintained by the catering club showing time the catering arrangements were made, the name of the persons or organizations making the arrangements and the approximate number of persons to be accommodated.
 - B. Licensed clubs with the catering privilege will be held responsible for the restrictions of groups accommodated and shall in no case allow service of liquor to persons not of the group registered with them. No liquor shall be sold if the club advertises or invites the public to attend. This does not prohibit the group from advertising their event, but tickets must be presold to the function and cannot be made available at the door.
 10. When a license application for a hotel premise is made and there is not a single management of the sleeping rooms and dining rooms, both the lessee and lessor will join in applying for the license. Both lessee and lessor shall be held jointly and severally responsible as licensees.
 11. All hotels required to sell food, including those licensed to sell only malt or wine, shall maintain dishware and utensils for their seating capacity and maintain a food inventory of at least \$2.00 per seat.
 12. All sales of spirituous or vinous liquor for consumption with or without food in rooms designated therefore shall be by the glass except that wines may be sold by the bottle for consumption by the glass, and further except that licensed hotels may sell liquor in the original container to bona fide registered guests to be delivered to their hotel room.

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13. *(Repealed.)*
 14. *(Repealed.)*
 15. All on-premise licensees including golf clubs, bowling centers, indoor racket clubs, indoor ice skating clubs, shall maintain adequate facilities for the purpose of serving alcoholic beverages, consisting of tables and chairs in an area designated by the Bureau.
 16. All arrangements for the service of liquor by a Qualified Catering Service shall be completed at least 24 hours in advance of the event or gathering.
 - A. Qualified Catering Services shall not provide the service of liquor to the public on its licensed premises on a regular day-to-day basis.
 - B. Qualified Catering Services shall not provide the service of liquor at any event or gathering primarily attended by minors.
 - C. *(Repealed.)*
 - D. Qualified Catering Service licensees shall not sell, serve or allow the consumption of liquor to any minors, visibly intoxicated persons or to any other person prohibited by law from obtaining liquor, while catering at any event or gathering.
 - E. Approval for the service of liquor by a catering permit or Qualified Caterer or Incorporated Civic Organization shall be denied if the municipality has not voted in the affirmative on the appropriate local option questions authorizing on-premise consumption.

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Chapter 3: PREMISES LICENSED FOR OFF-PREMISE SALES ONLY

1. No retail licensee can sell or deliver malt liquor, table wines, fortified wines or low alcohol spirits in any location in which the Bureau cannot issue licenses. Such a

delivery or sale shall be sufficient cause for suspension or revocation of a retail store license.

2. No retail store licensee shall accept or fill any order of malt liquor and/or table wines from, or for, any branch store or other retail dealer to whom no license has been issued.
3. No retail or wholesale licensee shall consume or allow consumption of liquor on his premise except approved wine tasting by a retailer or an authorized tasting on a wholesale premise. Licensed premises shall mean and include in addition to the licensed premises, all vehicles owned and operated by the licensee and used in the sale and transportation and storage of alcoholic beverages.
4. No wholesale or retail licensee shall permit the direct handling of liquor on his licensed premises by any person under the age of 15 years.
5. No retail store premise will be considered a bona fide business for the purpose of issuing or renewing a malt or table wine liquor license unless the applicant has on display in the general sales area at least \$1000.00 wholesale value of compatible merchandise.
6. Notwithstanding other provisions of law to the contrary, an applicant for off-premise retail sales need not disclose the identity of a sub-lessee occupying a portion of the licensed premises under the following circumstances:
 - A. The sub-lessee is prohibited, both by Maine law and the applicant, from selling, possessing, transporting or otherwise controlling alcoholic beverages on the licensed premises;
 - B. The sub-lessee is required to allow Bureau inspection of its premises at all reasonable times;
 - C. The applicant discloses the existence of the sub-lease and identifies the sub-lessee, along with the portion of the licensed premises occupied by the sub-lessee, in its license application; and
 - D. The applicant acknowledges that it is responsible for the actions of the sub-lessee, its employees and agents on the licensed premises in accordance with the applicant's obligations pursuant to the licensing requirements of Title 28-A and this chapter; and

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- E. An applicant for license may use neither the inventory nor the assets of the sub-lessee in order to meet the licensing requirements of this chapter.

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Chapter 4: PREMISES LICENSED AS WHOLESALERS, MANUFACTURERS AND CERTIFICATE OF APPROVAL

1. No holder of a Certificate of Approval shall offer to a wholesaler any brand that would by nature of its label be handled by a single licensee or a restricted group of licensees. All such brands approved for sale must be available to all retail licensees for resale to the consuming public. In instances wherein the affected wholesaler has a brand on allocation, all retail licensees shall be allowed, on a percentage basis, to purchase the allocated brand.
2. No holder of a Certificate of Approval, Brewery, Winery, or Wholesale licensee will provide any equipment pertaining to dispensing or storage of liquor except knobs on the dispensers which designate the brand on tap. After written notification to the Bureau, a Wholesale licensee may sell, give and install a keg tapping device, air hoses, beer hoses, air ducts and insulation for draft beer lines, including washers, clamps, faucets, air regulators, blowers and shanks. Towers, drain pans, refrigeration units and other devices not specifically allowed by this rule are prohibited. The servicing and repair of the draught equipment for the purposes of cleaning the beer lines is allowed without written notice. A record must be maintained by all licensees for all services and equipment provided or sold.
 - A. A Wholesale licensee with prior written approval may loan draft equipment to holders of special catering permits issued under Title 28A section 1052 and to holders of licenses issued under section 1071. This equipment may be used at temporarily licensed locations only and may not be used at a license holders regularly licensed premise.
 - B. All licensees, including the retailer will be jointly responsible for compliance with these rules.

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- C. A Wholesale licensee may sell portable draft equipment to an off-premise retail licensee if the value of such device does not exceed \$250. A record must be maintained for all such transactions with the off-premise licensee.
3. All Certificate of Approval holders and Alcoholic Beverages Manufacturers doing business in this State will provide the Bureau with the names and addresses of all persons authorized to represent them as sales and promotional agents. The license fee for sales representatives is provided for in Title 28-A, Section 1551.
4. *(Not in use.)*
5. All Certificate of Approval holders, when submitting copies of invoices to the Bureau for shipments to Maine wholesale licensees, where shipments include more than one purchase order, shall render separate invoices with the purchase order number entered thereon for that part of the shipment which applies to each order. Prompt filing of invoices by Certificate holders means a copy of the invoice shall be sent to the Bureau no later than when the wholesaler is invoiced or when shipment is made. An invoice must be rendered to the wholesaler before or at shipment.
6. There shall be no refund of excise tax for malt liquor, table, sparkling, fortified wine, or low alcohol spirits sold to government instrumentalities or foreign vessels unless they are submitted to the Bureau within 90 days of the invoice sale date. All merchandise destroyed for a refund of the excise tax shall be done only with an authorized Bureau employee.
7. No Maine wholesale licensee shall sell any product to any person who has not been issued the appropriate beer or wine license except government instrumentalities certified by the Bureau.
9. *(Repealed.)*
10. *(Repealed.)*
11. *(Repealed.)*

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12. No Manufacturer or Certificate of Approval holder, or Wholesaler, shall exact from or require by contract, understanding, or otherwise which would require any licensee to handle or sell only the products of any particular Manufacturer or Certificate of Approval holder. A wholesale licensee may not refuse to sell to a retail licensee in his allotted territory.
 13. A wholesale licensee or his representative or agent shall not handle or disturb another wholesaler's merchandise. Wholesalers and retailers are jointly liable for compliance with this rule.
 - A. Wholesalers may furnish displays to retailers provided the cost does not exceed \$300 per display, including delivery and labor. Product sold for display cannot be returned for a refund.
 - B. Pricing is allowed on Point-of-Sale material only.
 14. No holder of a Certificate of Approval, wholesaler dealer or their agent shall:
 - A. Clean, dust or wash shelves or self-service coolers;
 - B. Construct, repair or replace shelving;
 - C. Employ or allow a third party to accomplish (A) or (B) of this regulation.
 15. Samples given to licensees under M.R.S.A. 28-A subsection 1402-A, must be in the original sealed containers and previously unopened.
 16. No Brewery or Small Brewery may charge a fee for a tour or samples offered pursuant to M.R.S.A. 28-A subsection 1355(1-A) & (2).

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Chapter 5: LABELING

- 1 All labels on liquor shall be in conformity with the regulations adopted by the Federal Alcohol Administration Act. All malt liquor and table wine labels must be

approved by the Bureau. All labels must be registered. Registration fee is \$10.00 for each label. There shall be a \$1.00 filing fee for all label changes or reregistration.

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Chapter 6: SALESMAN

- 6.1 No person licensed under Title 28A Chapter 59 shall engage in any transaction involving the sale, delivery, or transportation of an alcoholic beverage to any retail licensee.

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Chapter 7: ADVERTISING AND SIGNS APPLICABLE TO ALL LICENSE HOLDERS

1. All liquor advertising, or any claims for liquor advertised, shall conform with the standards set forth in regulations under the provisions of the Federal Alcohol Administration Act as well as the Maine State Liquor Laws and the Commission Rules and Regulations.
2. No descriptive matter in liquor advertising shall be inconsistent with the description of the contents as listed on the labels of such liquor.
3. Advertisements of liquor shall not contain any undignified or improper illustration.

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4. No advertisement of liquor shall contain either subject matter or illustrations inducing minors or immature persons to drink, nor shall depict any person in the act of drinking liquor.
 5. No liquor advertising shall suggest any beneficial or tonic effect from drinking thereof.
 6. The use of radio or loud speaker equipment in or on any licensed premises for the purpose of attracting attention to the interior of the said premises is forbidden, except radio programs originating from the licensed premise.
 7. *Repealed.*
 8. No licensee shall display more than one liquor sign and from only one window.

(APA Office Note: information received indicates that the provisions of Section 7.8 have been repealed and replaced by statute, Title 28-A Section 710.)
 9. No advertising of liquor shall contain any subject matter relating to contests or prizes that require the purchase of or the awarding of any alcoholic beverage.
 10. Signs, posters, placards, or other items bearing advertising matter for use inside a retail premise may be furnished, given, rented, loaned or sold to a licensee if they have no value to the licensee except as advertisements, and if the total value of all such materials furnished by any manufacturer or wholesaler and in use at any one time in any licensed premises does not exceed \$1000; provided, that the manufacturer or wholesaler does not directly or indirectly pay a licensee for displaying such materials or for any expense due to their operation. The value of such materials shall include all expenses incurred directly or indirectly by the manufacturer or wholesaler in connection with the purchase, manufacture, transportation, assembly and installation of such materials and all additions thereto, and further provided that any manufacturer or wholesaler may furnish, give, rent, loan, or sell one malt and one vinous inside electric sign to each licensee which shall not be included in the \$1000 maximum for all materials furnished in this rule.

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11. No licensee, except wholesalers, shall have malt or vinous liquor advertisements or signs on or attached to delivery vehicles owned or controlled by them which advertise by brand name.
 12. No licensee, except a wholesale licensee, shall advertise liquor by any lighted sign visible from the exterior of a licensed premise during the hours that liquor is prohibited for sale. All outside and window signs bearing advertising must be approved for use by the bureau. Signs not approved must be removed within 60 days of notification by the bureau.
 13. Consumer specialties such as ash trays and corkscrew and other merchandise bearing advertising may be given or sold as long as a retail licensee is not paid to distribute such material.
 14. Advertising specialties such as trays, coasters, menu cards, wine list, meal checks, napkins, bar mats, tap markers, thermometers, clocks may be furnished given or sold as long as the cost of such items does not exceed \$300 annually.

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Chapter 11: AGENCY STORES

1. Agent is a person(s) or corporation who has been issued an Agency Liquor Store license by the Bureau of Liquor Enforcement.
2. Bureau shall mean the Bureau of Liquor Enforcement.
3. *Repealed.*
4. Director shall mean the Chief of the Bureau of Liquor Enforcement within the Department of Public Safety.

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5. Agency Liquor Store shall mean and include the entire premise owned and occupied by an agent which is used to conduct the operation of the liquor agency business.

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Chapter 12: LICENSING PROCEDURE

- 1 The Bureau will announce through newspaper ads the various locations where agency stores will be licensed.
- 2 When an application process is announced, applications are available through the Bureau of Liquor Enforcement, Station 87, Augusta, Maine 04333.
- 3 Applications will be accepted for a period of 15 days from the date agency ads first appear in the newspaper.
- 4 A representative from the Bureau will call on each applicant to inspect the premises.
- 5 Once a decision is made by the Director, all applicants denied will be so advised in writing.
- 6 Any applicant aggrieved by a decision rendered by the Bureau, may within 15 days of the date of the decision file an appeal with the Administrative Court. A person aggrieved by a decision of the Administrative Court may file an appeal with the Superior Court.

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Chapter 13: SELECTION AND LOCATION OF AGENCY STORES

1. All agency stores must have an inventory of at least \$1000.00 of merchandise other than that allowed by agency store license.
2. All agency stores must have adequate footage for the convenient sale of said other merchandise.
3. *(Repealed.)*
4. *(Repealed.)*
5. Agency stores must be more than 300 feet from a school, church, or parish house, measured in the normal course of travel.
6. Agency stores must have access to adequate parking facilities.
7. The Bureau may grant an agency store license to a store, which in its judgment, has the most satisfactory structure, condition, facilities and geographical location within the municipality.
8. The Bureau shall consider the extent of present or anticipated tourist traffic within the area of a proposed agency store.
9. The Bureau shall consider any other appropriate factor or circumstance it deems necessary for better service to the public.
10. In the event that an agent surrenders his license, the Bureau may readvertise for a new agent in that community if it determines there is a need to replace that license. When the Bureau determines that a change of ownership in a license has occurred, an agent must surrender his license.

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- A. When a premises licensed as an agency store moves the business, an agent is required to surrender his license. If an agent rebuilds the premises licensed and the Bureau determines that the location is unchanged, the Bureau may allow the agent to maintain the license issued to that location. The Bureau may deny the request if the new premises does not meet or exceed the qualifications for licensure of the original premises.

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Chapter 14: MERCHANDISING AND STOCK

1. Agents must purchase all spirits from the Bureau of Alcoholic Beverages/Lottery Operation and/or a State Liquor Store.
2. Agents must stock at least \$10,000 of bottled spirits if they are located in a town of at least 6000 population. All agents are required to have at least 100 different codes on hand or in stock.
3. A licensed liquor salesman or wholesale licensee, their agent or employee may stock spirits in an agency liquor store, but may not disturb another person's merchandise.
4. All merchandise must be priced individually or prices posted by brand in a conspicuous place.
5. Signs stating age requirement to purchase liquor shall be prominently displayed in all agency stores.
6. Escrow accounts for sales of spirits to on-premise licensees may be used with approval of the Bureau.

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7. For the purpose of receiving payment in an agency store or retail store, an employee must be 17 years old to receive payment for intoxicating liquor provided that there is a 21 year old present in a supervisory capacity. Persons 15 years of age may handle liquor for the purpose of stocking shelves and delivering to vehicles.
 8. Agents must confine liquor to selling areas designated in the agency application.
 9. Any change in agent's storage or selling space must be sanctioned by the Bureau.
 10. *(Repealed.)*
 11. Agents may not deliver liquor in areas where the sale of same is not permitted by law.
 12. Agents must have and display Federal Tax Stamp for retail sales.
 13. All sales of spirituous liquor are final except defective products may be exchanged or refunded.
 14. *(Repealed.)*
 16. Agents must have a Federal Wholesale Tax Stamp to sell to retail licensees.

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Chapter 15: SIGNS AND ADVERTISING

- 1 Agency stores may display one outside sign on the premise to read: "Agency Liquor Store." Letters for the sign may not exceed 18" in height.
- 2 one other exterior sign, except roadsigns authorized by the Department of Transportation, may be approved by the Bureau.
- 3 Specific brand advertising of any type is prohibited in any area under control of the agent unless authorized by the Bureau.
- 4 All advertising matter must be specifically authorized by the Bureau prior to publication.
- 5 All signs must be removed from an agency store premise within 60 days when a license is terminated.